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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 TOR AHMADD BISHOP,

12 Plaintiff,

13 v.

14 G. DODSON, et al.,

15 Defendants.  
16

No. 2:21-CV-0574-KJM-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action. Pending  
18 before the Court is Plaintiff's motion, ECF No. 20, for the appointment of counsel.

19 The United States Supreme Court has ruled that district courts lack authority to  
20 require counsel to represent indigent prisoners in civil rights cases. See Mallard v. United States  
21 Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may  
22 request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v.  
23 Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36  
24 (9th Cir. 1990). A finding of "exceptional circumstances" requires an evaluation of both the  
25 likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his  
26 own in light of the complexity of the legal issues involved. See Terrell, 935 F.2d at 1017.  
27 Neither factor is dispositive and both must be viewed together before reaching a decision. See id.  
28 In Terrell, the Ninth Circuit concluded the district court did not abuse its discretion with respect

1 to appointment of counsel because:

2 . . . Terrell demonstrated sufficient writing ability and legal knowledge to  
3 articulate his claim. The facts he alleged and the issues he raised were not  
4 of substantial complexity. The compelling evidence against Terrell made it  
extremely unlikely that he would succeed on the merits.

5 Id. at 1017.

6 In the present case, the Court does not at this time find the required exceptional  
7 circumstances. According to Plaintiff, appointment of counsel is warranted because Plaintiff is  
8 being denied access to the courts. See ECF No. 20, pg. 1-4. These circumstances are not the type  
9 of exceptional circumstances necessary for the appointment of counsel. Nor is a motion to  
10 appoint counsel the correct vehicle to remedy the denial of access to the courts. Further, there is  
11 not enough before the Court for a determination of the likelihood of success at this early stage in  
12 the proceedings. Plaintiff has also not demonstrated a likelihood of success on the merits in his  
13 motion. Finally, a review of the record demonstrates Plaintiff has been able to articulate his  
14 claims on his own.

15 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for the  
16 appointment of counsel, ECF No. 20, is denied.

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18 Dated: November 5, 2021



19 DENNIS M. COTA  
20 UNITED STATES MAGISTRATE JUDGE  
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